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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,375	12/19/2000	Samuel N. Zellner	00382	4937

7590 09/24/2004

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EXAMINER

DURAN, ARTHUR D

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/740,375

Applicant(s)

ZELLNER ET AL.

Examiner

Arthur Duran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-20 have been examined.

Response to Amendment

2. The Amendment filed on 6/1/04 is sufficient to overcome the Want reference.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Kulakowski (EP 0 964542).

Kulakowski discloses location information about the user (Fig. 2; Fig. 3; Fig. 6; Fig. 1), location-specific advertisements (Fig. 2; Fig. 3; Fig. 6; Fig. 1), sending location specific advertisements to the user (Fig. 2; Fig. 3; Fig. 6; Fig. 1).

Kulakowski further discloses the utilization of the Internet for delivery of advertisement information (col 11, lines 40-45; col 12, lines 45-52; col 4, lines 30-40; col 7, lines 55-col 8, line 10). Furthermore, the Internet utilizes TCP/IP.

4. Claims 13-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Obradovich (6,133,853).

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Obradovich discloses location information about the user (Fig. 1; Fig. 11; Fig. 20; Fig. 23a; Fig. 23b), location-specific advertisements (Fig. 1; Fig. 11; Fig. 20; Fig. 23a; Fig. 23b), sending location specific advertisements to the user (Fig. 1; Fig. 11; Fig. 20; Fig. 23a; Fig. 23b).

Obradovich further discloses pre-selected user criteria (Fig. 5a; Fig. 8).

Obradovich further discloses identifying the user (col 2, lines 54-50; col 5, lines 35-40; col 9, lines 1-10).

Obradovich further discloses the utilization of digital audio or text (col 15, lines 60-65; col 2, lines 4-11; col 2, lines 47-55).

Response to Arguments

5. Applicant's arguments with respect to claims 1-20 have been considered but are not found persuasive.

Examiner notes that while specific references were made to the prior art, it is actually also the prior art in its entirety that is being referred to.

On page 10 of the Applicant's Amendment dated 6/1/04, Applicant states, "Kulakowski fails to disclose at least, 'sending the first one of the plurality of location-specific advertisements to the wireless communication device in the form of a first TCP/IP message over a communication network'".

However, Kulakowski discloses the utilization of the Internet for delivery of advertisement information (col 11, lines 40-45; col 12, lines 45-52; col 4, lines 30-40; col 7, lines 55-col 8, line 10). Furthermore, the Internet utilizes TCP/IP.

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On page 11 of the Applicant's Amendment dated 6/1/04, Applicant states, "Obradovich fails to disclose, at least, 'receiving second information about the identity of the user'".

However, Obradovich discloses identifying the user (col 2, lines 54-50; col 5, lines 35-40; col 9, lines 1-10).

Obradovich further discloses the utilization of digital audio or text (col 15, lines 60-65; col 2, lines 4-11; col 2, lines 47-55).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (703)305-4687. The examiner can normally be reached on Mon- Fri, 7:30-4:00.

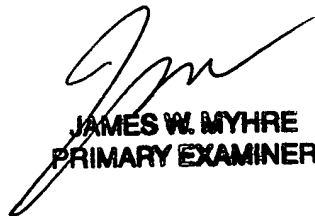
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (703)305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AD

9/1/04


JAMES W. MYHRE
PRIMARY EXAMINER